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10/509,373	10/24/2005	Roy Adar	0004803USU/2279	3982
27623 7590 04/16/2009 OHLANDT, GREELEY, RUGGIERO & PERLE, LLP ONE LANDMARK SQUARE, 10TH FLOOR STAMFORD, CT 06901				
EXAMINER				
SKINNER, SHEWANA D				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/509,373

Applicant(s)

ADAR ET AL.

Examiner

SHEWANA SKINNER

Art Unit

3689

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 0205.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/55/CE)
Paper No(s)/Mail Date 4/28/05, 6/28/07, 3/6/2007
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This communication is a First Action Non-Final on the merits. **Claims 1-54**, as originally filed, are currently pending and have been considered below.

Claim Objections

1. **Claim 26** is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 26 is not further limiting on claim 25.
2. **Claim 29** is objected to because of the following informalities: The claim neglects to recite a conjunction between the lists of devices. For purposes of examination, Examiner will use the conjunction "or". Appropriate correction is required.
3. **Claim 44** is objected to because of the following informalities: The claim recites "wherein the step of analyzing the at least one transaction and the associated at least one integrated interaction thereby analyzing the at least one interaction associated with a dispute." Examiner does not know what this recitation is claiming. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claim 29** recites the limitation "monitoring device, the surveillance device, the content analysis device" in Claim 1. There is insufficient antecedent basis for this limitation in the claim.

5. **Claims 1-32** are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: **Claims 1-32** recite an apparatus that comprises devices and a database and each are non-structural elements. Subsequently, the apparatus has no structural recitation within the claims to support it in a way that would define the apparatus claimed.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. **Claims 1-32** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. An “apparatus” defined merely by software or terms synonymous with software is not deemed statutory. The apparatus as recited does not have any structural definition within the claims and the specification does not disclose any structure relationship to said apparatus. Without the structure, the apparatus does not fit within the four statutory classes of method, apparatus, an article of manufacture and composition of matter.
2. **Claims 33-54** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The machine-or-transformation test is a two-branched inquiry; an applicant may show that a process claim is statutory either by showing that his claim is tied to a particular machine, or by showing that his claims transforms an article to a different state or thing. Certain considerations are applicable to analysis under either branch. First, the use of a

specific machine or transformation of an article must impose meaningful limits on the claim's scope to impart patent-eligibility. Second, the involvement of the machine or transformation in the claimed process must not merely be insignificant extra-solution activity.

The claims as recited are not tied to a particular machine, and there is not a particular machine disclosed in the specification and the claims do not transform the numerical data inputted into a different state or thing. Therefore, the claims do not recite statutory subject matter.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1-5,9-12,14-18,20,24,28,30-38,42,and 50-54** rejected under 35 U.S.C. 102(e) as being anticipated by Charnock *et al* (7,421,660), hereinafter "*Charnock*".

Charnock discloses the following as claimed:

Claim 1. An apparatus for the synchronization, integration and association of financially related captured interactions, the apparatus comprising: an at least one first interaction capturing device for capturing an at least one interaction; an at least one second interaction capturing device for capturing an at least one second interaction; a synchronizing device to synchronize the at least one first interaction with the at least one second interaction; and an integration device to integrate the at least one first interaction with the at least one second interaction into an at least

one integrated interaction. (*col 3 lines 58-65 and Fig 1 and 2 where the interactions can be financially related*)

Claim 2. The apparatus of claim 1 further comprising an association device to associate the at least one integrated interaction with the at least one transaction. (*fig 1*)

Claim 3. The apparatus of claim 1 further comprising an at least one recording and logging device for storing the at least first interaction, the at least one second interaction. (*fig 1*)

Claim 4. The apparatus of claim 1 further comprising an at least one interaction retrieval device to retrieve the at least one first interaction, the at least one second interaction, and the at least one integrated interaction. (*fig 1 and col 26 line 22*)

Claim 5. The apparatus of claim 1 further comprising an at least one interaction playback device to playback the at least one first interaction, the at least one second interaction and the at least one integrated interaction. (*fig 1 and fig 2 and col 31 lines 30-38*)

Claim 9. The apparatus for claim 1 further comprising a database for storing the at least one first interaction. (*fig 1*)

Claim 10. The apparatus for claim 1 further comprising a database for storing the at least one second interaction. (*fig 1 where the information stored in the database is not relevant to it's functionality and therefore not given patentable weight*)

Claim 11. The apparatus for claim 1 further comprising a database for storing the at least one first and second interaction. (*fig 1 where the information stored in the database is not relevant to it's functionality and therefore not given patentable weight*)

Claim 12. The apparatus for claim 1 further comprising a database for storing meta-data to provide the ability to retrieve the at least one integrated interaction. *(fig 1 where the information stored in the database is not relevant to it's functionality and therefore not given patentable weight)*

Claim 14. The apparatus of claim 1 further comprises at least one knowledge database for storing information associated with the at least one first interaction or with the at least one second interaction or with the at least one integrated interaction. *(fig 1 where the information stored in the database is not relevant to it's functionality and therefore not given patentable weight)*

Claim 15. The apparatus for claim 1 further comprising a notification message-generating device for generating a notification message associated with the at least one first interaction or with the at least one second interaction or with the at least one integrated interaction. *(col 7 lines 50-52 where the status can be a notification.)*

Claim 16. The apparatus for claim 1 further comprising a notification message-generating device for generating a notification message associated with misconduct. *(col 7 lines 50-52 where the type of information associated with the device is not relevant to the functionality of the device and therefore not given patentable weight that would different it over the prior art)*

Claim 17. The apparatus for claim 1 further comprising a notification message-generating device for generating a notification message associated with dispute resolution. *(col 7 lines 50-52 where the type of information associated with the device is not relevant to the functionality of the device and therefore not given patentable weight that would different it over the prior art)*

Claim 18. The apparatus for claim 1 further comprising a notification message-generating device for generating a notification message associated with a request for playback. *(col 7 lines 50-52 where the type of information associated with the device is not relevant to the functionality of the device and therefore not given patentable weight that would different it over the prior art).*

Claim 20. The apparatus of claim 1 further comprising a monitoring device to monitor the content of the at least one first interaction or the at least one second interaction. *(Fig 6 content icon, and col 8 lines 39-41).*

Claim 24. The apparatus of claim 1 wherein the at least one first interaction and at least one second interaction are associated with at least one transaction. *(col 8 lines 39-40)*

Claim 28. The apparatus of claim 1 wherein the at least one first interaction, the at least one second interaction and the at least one integrated interaction represent an at least one interaction between at least two parties. *(Col 4 lines 62-63)*

Claim 31. The apparatus of claim 1 wherein the at least one first interaction or the at least one second interaction is an audio or video interaction. *(Col 7 lines 38-40)*

Claim 32. The apparatus of claim 1 wherein the at least one first interaction or the at least one second interaction is a data exchange or data capture interaction. *(Col 7 lines 42-45)*

Claim 33. A method for the synchronization, integration and association of financially related captured interactions, the method comprising the steps of: capturing an at least one first interaction at a first interaction capturing device; capturing an at least one second interaction at a second interaction capturing device; synchronizing the at least one first interaction with the at

least one second interaction; and integrating the at least one first interaction and the at least one second interaction into an at least one integrated interaction. *(col 3 lines 58-65 and Fig 3)*

Claim 34. The method of claim 33 further comprising the step of associating the at least one integrated interaction with an at least one transaction. *(col 6 lines 28-31)*

Claim 35. The method of claim 33 further comprising the step of recording and logging the at least one first interaction and the at least one second interaction on an at least one recording and logging device. *(col 5 lines 32-40 where the graphs show the recorded and logged interactions)*

Claim 36. The method of claim 33 further comprising the step of retrieving the at least one first interaction, the at least one second interaction. *(Col 3 processing requires retrieving and Col 26 line 22)*

Claim 37. The method of claim 36 further comprising the step of generating the at least one integrated interaction from the retrieved at least one and second interaction. *(Col 5 lines 7-17)*

Claim 38. The method of claim 33 further comprising the step of playing back the at least one first interaction, the at least one second interaction, or the at least one integrated interaction. *(Col 31 lines 30-38)*

Claim 42. The method of claim 33 further comprising the step of collecting additional information. *(Col 9 lines 1-6 where items are information)*

Claim 50. The method of claim 33 wherein the synchronizing of the at least one first interaction with the at least one second interaction is a time-based synchronizing process or is a sequential-based synchronizing process. *(col 6 lines 28-32 and Examiner finds the type of synchronizing*

process to be nonfunctional descriptive material not functionally involved in the steps recited. The actual step of synchronizing would be performed the same regardless of the type of process. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404, (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994)).

Claim 51. The method of claim 33 wherein the at least one first interaction and the at least one second interaction are identified by an interaction identifier. *(Col 6 lines 10-13)*

Claim 52. The method of claim 51 wherein the interaction identifier is a unique point-in-time based identifier. *(Col 6 lines 21-23, lines 36-37 and for the record Examiner finds the type of identifier to be nonfunctional descriptive material not functionally involved in the steps recited. The step of identifying the interaction would be performed the same regardless of the type of identifier. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404, (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994)).*

Claim 53. The method of claim 51 wherein the at least one interaction identifier is a unique identifier. *(Col 6 lines 10-13 and for the record Examiner finds the type of script to be nonfunctional descriptive material not functionally involved in the steps recited. The step of generating a script would be performed the same regardless of the type. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404, (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994)).*

Claim 54. The method of claim 33 wherein the at least one first interaction and the at least one second interaction constitute a time-based sequence of events. (*Col 6 lines 19-31*)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. **Claims 6-8, 13, 19,21-23, 25-27, 29 and 30** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Charnock* ,in view of, *McDonough et al* (*US 6,115,693*), hereinafter "*McDonough*".

As per Claim 6, *Charnock* discloses an apparatus for the synchronization, integration and association of financially related captured interactions (fig 1) where parameters are set-up (Col 5 lines 8-16). However, it does not explicitly state the adaptive calibration stated in the limitation.

McDonough discloses an apparatus in a Quality Center for a Virtual Sales and Service Center that is responsible for monitoring the customer experience and managing call center business operations where there is an ability to change parameters for routing and overflow rules. col 13 lines 27-28

Therefore, from the teaching of *McDonough*, it would have been obvious to one of ordinary skill in the art at the time the invention was made to explicitly state that you can set-up

and adaptively change the parameters on the apparatus disclosed in *Charnock* in order to effectively adapt to the changes in the interactions.

As per Claim 7, *Charnock* discloses an apparatus for the synchronization, integration and association of financially related captured interactions (fig 1). However, it does not explicitly state a device for secured access as in the limitation.

McDonough, (col 6 lines 7-9), discloses providing a secured access device.

Therefore, from the teaching of *McDonough*, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a secured access device when accessing the apparatus disclosed in *Charnock* to better control the security and privacy of the interactions.

As per Claim 8, Examiner finds the type of script to be nonfunctional descriptive material not functionally involved in the structure of the apparatus recited. The access being time-based would not affect the apparatus structurally having a secured access device. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404, (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994)).

As per Claims 13 and 19, *Charnock* discloses an apparatus for the synchronization, integration and association of financially related captured interactions (fig 1). However, it does not explicitly state a device for contact and business analysis.

McDonough, (col 12 lines 45-54), discloses the Quality Center device analyzing the statistics with regard to the call center business functions which are the interactions.

Therefore, from the teaching of *McDonough*, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a secured access device when accessing the apparatus disclosed in *Charnock* to better control the security and privacy of the interactions.

As per Claims 21-23, 29 and 30, *Charnock* discloses an apparatus for the synchronization, integration and association of financially related captured interactions (fig 1). However, it does not explicitly state a device for evaluations and surveillance.

McDonough, (col 13 lines 1-3), discloses the quality center with multiple devices: an evaluations device, and a surveillance device (*col 13 lines 7-9*), providing notification (*Col 13 lines 16-18 where the information being detected is not structurally relevant to the apparatus*), and the monitoring is performed in real-time (*col 10 lines 10-11*) whereby there is a device to automate the monitoring per the routing rules (*col 7 lines 41-42*).

As per Claims 25-27, Examiner finds the type of secured access to not structurally relevant to the apparatus as recited and therefore not given patentable weight that would distinguish it over the prior art.

2. **Claims 39-41, and 43-48** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Charnock* in view of *McDonough*.

As per Claim 39, *Charnock* discloses a method for the synchronization, integration and association of financially related captured interactions (fig 1) where parameters are set-up (Col 5 lines 8-16). However, it does not explicitly state the adaptive calibration stated in the limitation.

McDonough discloses an a Quality Center for a Virtual Sales and Service Center that is responsible for monitoring the customer experience and managing call center business operations where there is an ability to change parameters for routing and overflow rules. (col 13 lines 27-28)

Therefore, from the teaching of *McDonough*, it would have been obvious to one of ordinary skill in the art at the time the invention was made to explicitly state that you can set-up and adaptively change the parameters on the invention disclosed in *Charnock* in order to effectively adapt to the changes in the interactions.

As per Claim 40, 43 and 44, *Charnock* discloses a method for the synchronization, integration and association of financially related captured interactions (fig 1). However, it does not explicitly state analyzing interactions.

McDonough, (col 12 lines 45-54), discloses the Quality Center analyzing the statistics and the customer feedback which are the interactions.

Therefore, from the teaching of *McDonough*, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the step of analysis to the invention disclosed in *Charnock* to analyze the content of the interactions.

As per claim 41, Examiner finds the “concerning misconduct in association” to be nonfunctional descriptive material not functionally involved in the steps recited. The step of generating a notification message would be performed the same regardless of its association. Thus, this descriptive material will not distinguish the claimed invention from the prior art in

terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404, (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994)).

As per Claims 45 and 46, Examiner finds “provides for regulatory compliance” and “provides for quality management” to be nonfunctional descriptive material not functionally involved in the steps recited. The step of analyzing would be performed the same regardless of what the analysis provides for. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404, (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994)).

As per Claim 47, *Charnock* discloses a method for the synchronization, integration and association of financially related captured interactions (fig 1) and being able to monitor the time an interaction occurs (col 6 lines 28-44). However, it does not explicitly state the step of monitoring in real-time and automatically scheduling interactions to be monitored, analyzed and evaluated.

McDonough monitors in real-time (Col 6 lines 43-48) and automated said functions (*col 7 lines 41-42*).

Therefore, from the teaching of *McDonough*, it would have been obvious to one of ordinary skill in the art at the time the invention was made to explicitly state the step of monitoring in real-time and to automate the scheduling of the monitoring to the invention disclosed in *Charnock*.

As per Claims 48, Examiner finds “provides for the detection of malpractice” to be nonfunctional descriptive material not functionally involved in the steps recited. The step of

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monitoring would be performed the same regardless of what the monitoring provides for. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404, (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994)).

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEWANA SKINNER whose telephone number is (571)270-7141. The examiner can normally be reached on Monday-Friday 8:00am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mooneyham Janice can be reached on (571)272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SHEWANA SKINNER/
Examiner, Art Unit 3689

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4/11/09